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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,711	09/06/2006	Per Gustafsson	0104-0589PUS1	3157
2292 7590 03/11/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER HARMON, CHRISTOPHER R				
ART UNIT 3721		PAPER NUMBER		
NOTIFICATION DATE 03/11/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/591,711

**Applicant(s)**

GUSTAFSSON, PER

**Examiner**

Christopher R. Harmon

**Art Unit**

3721

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- \_\_\_\_\_ Paper No(s)/Mail Date 9/6/06; 9/19/07.

- 4) ☐ Interview Summary (PTO-413)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Group I claims 1-14 and 17 in the reply filed on 12/28/07 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the examiner. This is not found persuasive because the various groups of claims are directed towards divergent subject matter. It is indeed considered a burden to the examiner to search and prosecute multiple inventions and combinations thereof in a single application. The number of claims is not necessarily indicative of the burden of the examination process nor is it necessarily a static amount, as the applicant may submit new claims in future amendments. The requirement is still deemed proper and is therefore made FINAL.

2. Claims 15-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7-10, 13-14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatozaki et al. (US 6,110,089).

Hatozaki et al. disclose a device for producing container blanks from a material web comprising at least one sealing tool 57 with an extended rib 57a movable to join opposing webs between abutment 58 forming a compartment via compensating means (spring assembly) 72. The springs are arranged along edge portions of the sealing device (see figure 4) and allow for varying contact pressure over the extent of the floating sealing tool 57. The spring assembly suspends the sealing tool from base element 59a and are biased via screws 74.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hatozaki et al. (US 6,110,089).

Hatozaki et al. do not directly disclose the spring assembly comprising of mutually different spring constants however the examiner takes Official Notice that various springs are well known in the art for use in applying biasing forces. One of ordinary skill in the art would recognize that using springs with different spring constants would modify the pressure upon the biased sealing tool 57. It would have been obvious to one of ordinary skill in the art to modify the invention to Hatozaki et al. to include springs with different spring constants in order to modify the biasing pressure

along the length of the sealing tool. Note further that Hatozaki et al. provide for independent adjustment of the individual spring compression via screw 74 thus allowing for variable pressure adjustment to a desired level. The use of springs with differing spring constants would also allow for altering the biasing force if so desired.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatozaki et al. (US 6,110,089) in view of Pansier et al. (US 6,890,290).

Hatozaki disclose a pin securing construction between elements however not where the spring is positioned around the pin with a stopping washer. Pansier et al. in a similar invention disclose elements of a sealing tool mounted on a biased pin/spring/washer 44 construction wherein the biasing spring is positioned around the pin; see figure 7b.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the pin, spring, and stopping washer construction as taught by Pansier et al. in the invention to Hatozaki et al. as an alternate known construction of securely biasing the sealing tool to the base element.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/  
Primary Examiner, Art Unit 3721